

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA

Plaintiff,

vs.

BRIAN K. BOONE,

Defendant.

Case No. 06-40052-DRH

ORDER

HERNDON, District Judge:

Before the Court is Defendant's Motion to Continue Trial (Doc. 14), which is currently set for December 4, 2006. Defendant was initially appointed counsel on October 12, 2006 (Doc. 8). The appointed Assistant Federal Public Defender later filed a Motion to Withdraw (Doc. 13), which this Court granted and thereby appointed Defendant's present counsel (Doc. 15).¹ In his Motion, Defendant states that his present counsel, just having been appointed, has not yet received discovery from Defendant's former counsel nor has he been able to adequately confer with Defendant in order to properly prepare for trial. Therefore, Defendant requests a continuance of the trial for at least ninety (90) days.

¹ The Court notes that the Motion to Continue was actually filed by Defendant's present counsel prior to the Court's Order (Doc. 14) officially appointing him, but the Court will overlook the technical error to concentrate on the substantive prayer for relief the Motion (Doc. 14) concerns.

In light of the circumstances at hand, it is in the interests of justice to allow his counsel reasonable time for effective preparation – to deny this would result in a miscarriage of justice, as it is not contested counsel has acted with due diligence in preparing for trial since the time of his appointment to this matter. Further, Defendant was only recently indicted a few months ago. Although there is a strong interest in adhering to a speedy trial, such interest does not prevail over the interest of allowing Defendant enough time for he and his counsel to adequately prepare his defense, so that a fair and just trial is conducted.

Therefore, the Court being fully advised in the premises finds, pursuant to **18 U.S.C. § 3161(h)(8)(A)**, that the ends of justice served by the granting of such continuance outweighs the best interests of the public and Defendant in a speedy trial. Accordingly, the Court **GRANTS** Defendant's Motion to Continue (Doc. 14), and **CONTINUES** the jury trial scheduled for Monday, December 4, 2006 to **Monday, March 19, 2007 at 9:00 a.m.** The time from the date Defendant's Motion (Doc. 14) was filed, November 24, 2006, until the date to which the trial is rescheduled, March 19, 2007, is excludable time for the purposes of speedy trial.

IT IS SO ORDERED.

Signed this 29th day of November, 2006.

/s/ David RHerndon
United States District Judge